

IOWA DEPARTMENT OF REVENUE [701]

Notice of Intended Action

Pursuant to the authority of Iowa Code chapter 17A and sections 421.17 and 437A.25, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 70, “Replacement Tax and Statewide Property Tax,” Chapter 71, “Assessment Practices and Equalization,” Chapter 75, “Property Tax Administration,” Chapter 78, “Property Tax Exemptions,” and Chapter 80, “Property Tax Credits and Exemptions,” Iowa Administrative Code.

Item 1 amends subrule 70.22(1) by requiring that any entity or person subject to the replacement tax must keep records of all property transferred or disposed of in the preceding calendar year by local taxing district.

Item 2 amends the implementation clause for Rule 70.22.

Item 3 amends subrule 71.5(2) to require assessors to use the actual rent received rather than comparable sales or economic rent received in valuing section 42 properties.

Item 4 amends subrule 71.20(4) to permit a board of review to accept taxpayer protests by electronic transmission.

Item 5 adopts new rule 75.8 which clarifies that a county is immune from the statute of limitations when collecting delinquent property taxes.

Item 6 amends rule 78.8 to allow certain properties acquired by purchase after the filing deadline for claiming a property tax exemption to receive the exemption if the properties would have been exempt had a timely claim for exemption been filed.

Item 7 adopts new rule 80.26 which allows a tax exemption on property used by a web search portal business if the business meets certain criteria.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than _____, 2007 to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before _____, 2007. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515) 281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by _____, 2007.

Items 1, 2, 5, 6 and 7 are intended to implement 2007 Iowa Acts, Senate Files 278 and 450

and House Files 912 and 923. Item 3 requires assessors to use the actual rent received rather than comparable sales or economic rent received in valuing section 42 properties and item 4 provides the taxpayer with an alternative means for filing a protest with the board of review.

The following amendments are proposed.

ITEM 1. Amend subrule 70.22(1) by deleting paragraphs e and f, adding the following new paragraph, and relettering the existing paragraphs accordingly:

Records associated with the transfer or disposal of all operating property in the preceding calendar year by local taxing district.

ITEM 2. Amend 701—Chapter 70, “Replacement Tax And Statewide Property Tax,” implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 437A as amended by 2007 Iowa Acts, Senate File 278.

ITEM 3. Amend subrule 71.5(2), paragraph a, by striking the paragraph and inserting in lieu thereof the following new paragraph:

a. Productive and earning capacity. In assessing property that is rented or leased to low-income individuals and families as authorized by section 42 of the Internal Revenue Code and which section limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property.

ITEM 4. Amend subrule 71.20(4), paragraph a, to read as follows:

a. A board of review may act only upon written protests which have been filed with the board of review between April 16 and May 5, inclusive. In the event May 5 falls on a Saturday

or Sunday, protests filed the following Monday shall be considered to have been timely filed. Protests postmarked by May 5 or the following Monday if May 5 falls on a Saturday or Sunday shall also be considered to have been timely filed. All protests must be in writing and signed by the taxpayer or the taxpayer's authorized agent. A written request for an oral hearing must be made at the time of filing the protest and may be made by checking the appropriate box on the form prescribed by the department of revenue. Protests may be filed for previous years if the taxpayer discovers that a mathematical or clerical error was made in the assessment, provided the taxes have not been fully paid or otherwise legally discharged. The protester may combine on one form assessment protests on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of the protests, the person making the combined protests may request that the oral hearings be held consecutively. A board of review may allow protests to be filed in electronic format. Protests transmitted electronically are subject to the same deadlines as written protests.

ITEM 5. Amend 701—Chapter 75, “Property Tax Administration,” by adding the following new rule:

701—75.8(614) Delinquent property taxes. A county is immune from the statute of limitations when collecting delinquent property taxes levied on or after April 1, 1992 (Fennelly v. A-1 Machine and Tool Co., No. 73/04-1232—10/6/06).

This rule is intended to implement Iowa Code section 614.1 as amended by 2007 Iowa Acts, Senate File 450.

ITEM 6. 701—78.8(427) Abatement of taxes. The board of supervisors may abate the taxes levied against property acquired by gift or purchase if the property was acquired after the deadline for filing a claim for property tax exemption if the property would have been exempt under Iowa Code section 427.1, subsection 8 or 9, if a timely claim had been filed, or was acquired after July 1 if the property would have been exempt under Iowa Code section 427.1, subsection 7.

This rule is intended to implement Iowa Code ~~Supplement~~ section 427.3 as amended by 2007 Iowa Acts, House File 923.

ITEM 7. Amend 701—Chapter 80, “Property Tax Credits and Exemptions,” by adding the following new rule:

701—80.26(427) Web search portal property. This exemption includes cooling systems, cooling towers, and other temperature control infrastructure, all power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of the web search portal, including but not limited to exterior dedicated business owned substations, back-up power generation systems, battery systems, and related infrastructure, and racking systems, cabling, and trays, which are necessary for the maintenance and operation of the web search portal. The exemption does not apply to land, buildings, and improvements or power distribution systems subject to assessment under Iowa Code chapter 437A. The web search portal business must meet the requirements contained in section 423.3, subsection 92, for the exemption to be allowable.

This rule is intended to implement Iowa Code section 427.1(35) as amended by 2007 Iowa Acts, House File 912.

DAVID L. CASEY

DATE